

The Designation of Constitutional Judges in Cameroon: Between Constitutional Legality and a Lack of Independence

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ABSTRACT:

The Designation of constitutional judges is a major determinant of the independence of constitutional adjudication, although it does not, by itself, exhaust the guarantees required for such independence. This article offers a renewed reading of the Cameroonian system by moving beyond an analysis focused exclusively on presidential influence. It combines legal, historical-institutional, and comparative methods to examine, first, the historical and political factors that shaped the institutional architecture introduced in 1996 and, second, the lessons offered by four reference models: Benin, South Africa, France, and Germany. The study shows that the pluralistic selection framework provided by Article 51 of the Cameroonian Constitution remains limited by three cumulative factors: the intervention of the President of the Republic in the formal act appointing all members, the institutional dependence of the selecting bodies, and the persistence of a political culture of centralisation. The delay of more than twenty years between the constitutional establishment of the Council in 1996 and its effective installation in 2018 further demonstrates that independence depends not only on constitutional formulas, but also on the political will to make them effective. The comparative analysis highlights several techniques capable of mitigating the risks of institutional capture: constitutionally specified professional criteria, internal election of the head of the court, independent shortlisting, public hearings, parliamentary scrutiny, and qualified majorities. The article does not advocate the mechanical transplantation of such models. Rather, it argues for a contextualised reform: reducing presidential control over the final stage of the Designation process, strengthening the autonomy of the Higher Judicial Council, publicising candidacies, imposing stricter incompatibility rules, and ensuring the consensual selection of the President of the Constitutional Council. The independence of constitutional justice thus appears as the product of convergent legal arrangements, political practice, and institutional culture.

Keywords: Constitutional Judge; Constitutional Council; Cameroon; Selection and Designation; Judicial Independence; Comparative Constitutional Law; Presidentialism; Rule of Law.

INTRODUCTION

Constitutional justice is generally understood as one of the mechanisms through which the Constitution ceases to be a mere political proclamation and becomes an effective norm for limiting public power. Depending on the legal system concerned, the constitutional judge reviews the constitutionality of legislation, regulates relations among institutions, and often safeguards rights and freedoms. The capacity to perform these functions depends not only on the scope of the judge's powers, but also on the conditions under which members are selected, protected, and insulated from any expectation of loyalty to political authorities (Favoreu, 1996; Rousseau, 2020).

Selection is not, however, an isolated indicator. A court may be composed of members appointed by political authorities and nevertheless develop an autonomous body of case law; conversely, an apparently pluralistic arrangement may be neutralised where the bodies responsible for selecting judges belong to the same chain of political dependence. The analysis of independence must therefore combine three dimensions: organic independence, which concerns composition and tenure guarantees; functional independence, which relates to the resources and autonomy of the institution; and symbolic independence, namely the reasonable confidence that citizens and political actors can place in its impartiality.

In Cameroon, the issue is particularly acute. The Constitution resulting from the revision of 18 January 1996 establishes the Constitutional Council as the body responsible for regulating the functioning of institutions and the activities of public authorities. Article 51 provides for a Council composed of eleven members selected from among persons of established professional standing, high moral integrity, and recognised competence. Their term of office is six years and may be renewed. Three members, including the President of the Council, are selected by the President of the Republic; three by the President of the National Assembly after consultation with the Bureau; three by the President of the Senate after consultation with the Bureau; and two by the Higher Judicial Council. The article further provides that the members are formally appointed by the President of the Republic and confers on former Presidents of the Republic the status of *ex officio* members for life (Constitution of Cameroon, art. 51).

This wording calls for an essential distinction between selection and formal Designation. Selection allocates the initiative among four authorities or bodies; formal Designation, which legally completes accession to office, falls to the President of the Republic. This dual process does not mean that every Designation necessarily produces personal dependence. It does, however, disclose a normative presidential centrality that must be examined in light of the actual configuration of the institutions involved. The purpose of this study is therefore not to claim that every decision of the Constitutional Council is determined by the Executive, but rather to assess the structural risks generated by a process in which a plurality of selecting bodies may not correspond to an effective plurality of countervailing powers.

The initial article focused primarily on this presidential centrality. Such an approach had the advantage of bringing out the tension between the formal pluralism of the text and the practical conditions under which Designation power is exercised. It nevertheless remained incomplete in two respects. First, it did not sufficiently incorporate the historical and political factors that explain the form taken by Cameroonian constitutional justice: the legacy of a highly centralised State, the post-colonial consolidation of executive power, the transition from a federal State to a unitary State, the political liberalisation of the 1990s, and the delayed implementation of the constitutional institution. Secondly, it employed comparison only intermittently, rather than making it a structured tool of contextualisation. Yet the Beninese, South African, French, and German models show that guarantees of independence are constructed through different combinations of professionalisation, procedure, consensus, and public oversight.

This study therefore adopts a legal, historical-institutional, and comparative methodology. The legal analysis examines the Cameroonian Constitution, the laws governing the Constitutional Council and the Higher Judicial Council, and the instruments that accompanied the establishment of the Council in 2018. The historical-institutional analysis situates those texts within the trajectories of the Cameroonian State: nation-building, concentration of presidential authority, political liberalisation in the 1990s, and the delayed implementation of certain constitutional innovations. Finally, the comparison is conducted on the basis of constant criteria: the authorities involved in selecting members, eligibility requirements, the transparency of the process, renewal of tenure, the selection of the head of the court, and guarantees of autonomy (Fombad, 1998).

The choice of Benin, Senegal, South Africa, France, and Germany is based on a functional rationale. Benin and Senegal enable Cameroon to be compared with two Francophone African experiences which are close in certain aspects of legal tradition but distinct in the intensity of pluralism in Designations. South Africa illustrates the role that a public and pluralistic shortlisting phase can play. France recalls that a French-style constitutional council may be politically composed while still being subject to mechanisms of procedural discipline; Germany, in turn, demonstrates the role of a qualified majority in the pursuit of compromise. The objective is therefore neither to import foreign models mechanically nor to presume their superiority, but to identify safeguards capable of adaptation to the Cameroonian context (Loic, 2024, p. 16).

The central question may consequently be reformulated more broadly: how do the history of Cameroonian institutional development, the configuration of relations among public powers, and the legal modalities for selecting constitutional judges combine to affect the actual and perceived independence of the constitutional judge? The answer requires showing, on the one hand, that presidential centrality results from a legal architecture and a politico-historical trajectory; and, on the other, that comparative arrangements offer techniques of limitation, transparency, and professionalisation capable of making Cameroonian pluralism more effective.

The creation of the Constitutional Council in 1996 forms part of the reforms of political pluralisation and constitutionalisation that affected several African States in the 1990s. Yet the institution did not receive its first members and its President until February 2018, through Decrees Nos. 2018/105 and 2018/106. This gap of more than twenty years is institutionally significant: it demonstrates that the democratic value of a norm depends on its activation and on its reception by political actors (Decrees Nos. 2018/105 and 2018/106 of 7 February 2018).

Accordingly, the research question may be stated as follows: to what extent does Cameroon's historical and political trajectory, when considered alongside the experience of African and international courts, explain the limitations of the present model for appointing constitutional judges and identify reforms suited to the requirement of independence? The hypothesis advanced is that the perceived deficit of independence does not stem solely from the direct influence of the President of the Republic. It results from the combination of a centralised Designation architecture, a presidentialised institutional environment, weakly objectified procedures, and a culture of government in which the autonomy of oversight bodies remains fragile.

To address this question, the study adopts a legal, historical-institutional, and comparative method. The legal analysis concerns the provisions governing the composition and Designation of the Constitutional Council. The historical-institutional analysis relates those provisions to the phases of construction of the Cameroonian State and to the evolution of relations among public powers. The comparative approach does not seek to rank systems abstractly or to import foreign solutions. It compares specific safeguards: selecting authorities, eligibility criteria, the role of a pre-selection commission, review mechanisms, the method of choosing the head of the court, and incompatibility rules. Benin is retained because of its proximate legal tradition and its professional framework for composition; South Africa because of the role of the Judicial Service Commission; France because of its shared-Designation constitutional council model; and Germany because of the election of judges by qualified majority (Loic, 2024, p. 16).

The study is organised in three parts. The first retraces the historical and political foundations of presidential centrality and the ambiguities of the existing normative framework. The second compares the Cameroonian model with four selected experiences. The third proposes a gradual and contextualised reconfiguration of the selection process in order to strengthen the organic, functional, and symbolic independence of the Constitutional Council.

The Cameroonian Architecture: Between Normative Pluralism, A Centralising Trajectory, And Presidential Centrality

The method of selecting constitutional judges cannot be understood merely by counting the allocation of seats. The rule contained in Article 51 is embedded in a longer institutional history, marked by the construction of a State in which unity, stability, and the capacity to govern have often been conceived around the presidency. The analysis therefore distinguishes the political history of the presidential office (A) from the contemporary ambiguities of the selection procedure (B).

A historical and political trajectory that sheds light on the institutionalisation of constitutional justice

Cameroon's constitutional history has been marked by institutional transformations that progressively strengthened the centrality of the State and of its head. The independence of East Cameroon in 1960, followed by reunification in 1961, led to the organisation of a federal State seeking to balance distinct legal, linguistic, and administrative legacies. The transition to a unitary State in 1972 subsequently reinforced the logic of concentrating national institutions. That trajectory does not mechanically preclude the emergence of independent constitutional justice; it nevertheless explains why oversight arrangements developed in an environment in which the Executive is the driving centre of the principal institutions (Fombad, 1998; Kamto, 1987).

The reforms of the 1990s introduced new mechanisms: political pluralism, bicameralism, a more visible affirmation of rights, and the creation of a Constitutional Council. The 1996 Constitution cannot therefore be reduced to a replication of the earlier model. It represents an attempt to reconcile democratic opening with the requirements of State continuity and stability. It is precisely this reconciliation that explains its ambivalence: it

establishes a body autonomous in the exercise of its oversight powers, while preserving close institutional links between that body, Designation power, and the Executive.

The delay in the effective establishment of the Constitutional Council is a significant indicator of this ambivalence. For more than two decades, matters falling within constitutional litigation continued to be handled within a transitional institutional framework. The institution's assumption of office in 2018 certainly gave concrete effect to a long-standing constitutional requirement. It also showed that the normative existence of a court is insufficient: the vitality of the rule of law depends on the speed with which oversight institutions are made operational, equipped with resources, and accepted as autonomous arbiters (Decrees Nos. 2018/105 and 2018/106 of 7 February 2018).

Centralisation is not reflected only in the texts governing the Constitutional Council. It also arises from the relationships among the appointing institutions. The Higher Judicial Council assists the President of the Republic in his constitutional mission as guarantor of the independence of the judiciary; its organisation and functioning are governed by statute. In institutional practice and under amended Law No. 82/14, the President of the Republic chairs this body. This situation does not deprive the Higher Judicial Council of all expert capacity, but it qualifies the proposition that the two selections allocated to it alone constitute a guarantee of independence distinct from the Executive (Constitution of Cameroon, art. 37; Law No. 82/14).

Political factors are added to this institutional element. In any system in which the presidencies of the parliamentary chambers and the Executive are carried by the same enduring majority, the formal plurality of appointing authorities may be reduced by political homogeneity. The effect is not automatic: the internal procedures of the Bureaux, the existence of effective parliamentary opposition, and the autonomy of proposed individuals may introduce nuances. However, the absence of public hearings, calls for applications, or qualified-majority voting limits the capacity of such nuances to become genuine counterweights. Selection must therefore be analysed as a relationship among concrete institutions, not as a mere addition of seats.

Finally, the pursuit of regional, linguistic, or sociological balances may influence the selection of persons called upon to hold high judicial office. Plural representation can contribute to an institution's legitimacy in a composite State; it must not, however, displace the requirement of competence or become an informal method for politically allocating positions. The challenge is to reconcile diversity and independence: a constitutional court should reflect society without becoming the aggregate of partisan, administrative, or regional delegations.

This trajectory should be analysed without reducing constitutional law to the will of a single leader. The independence of the constitutional judge is shaped by a plurality of variables: administrative culture, party structure, the weight of the parliamentary majority, rules governing judicial careers, the material resources of the court, Designation practice, and social acceptance of judicial review of public power. In this respect, presidentialisation is not merely an individual fact; it is a mode of institutional organisation whose effects spread through procedures, administrative conduct, and understandings of public authority (Mbaku, 2014).

The influence of the French model also requires qualification. The choice of a Constitutional Council, rather than a Constitutional Court in the strict sense, corresponds to a tradition in which the review body stands at the intersection of law and politics. However, the transplantation of an institutional form does not produce the same effects in every political environment. The original model itself contains oversight mechanisms and operates within a system of partisan pluralism, parliamentary publicity, and the gradual consolidation of the court. The Cameroonian challenge therefore does not lie in the existence of a French-style Council as such; it lies in the local conditions surrounding the selection, installation, and exercise of its powers (Constitution of Cameroon, Preamble and art. 1; Fombad, 1998).

Finally, it is necessary to distinguish the legitimate objectives of stability and representation from the risk of confusing those objectives with the pursuit of loyalty. In a State marked by linguistic, cultural, and territorial diversity, attention to social plurality may contribute to the acceptance of the court. Yet where considerations of origin, networks, or partisan affiliation replace criteria of competence and integrity, they weaken the judicial function. A serious reform should not set representative diversity against professionalisation; it should reconcile them through rules ensuring that diversity never becomes a substitute for independence.

Article 51 of the Constitution: a plurality of selections limited by the unity of formal Designation

Article 51 establishes a hybrid composition. Three members are selected by the President of the Republic, three by the President of the National Assembly after consultation with the Bureau, three by the President of the Senate after consultation with the Bureau, and two by the Higher Judicial Council. At the stage of selection, the text therefore does not confer an explicit monopoly on the President of the Republic over all proposals. This plurality reflects a classic logic of contemporary constitutionalism: to prevent a single branch from choosing every member of the court responsible for safeguarding the Constitution (Constitution of Cameroon, art. 51(2)).

However, the same article provides that members of the Constitutional Council are formally appointed by the President of the Republic. The text thus distinguishes the initiative of selection from the power that completes the Designation. This relationship warrants close attention. In a system in which the act of Designation is purely formal, centralisation may remain limited. Nevertheless, where the Head of State already occupies a determining position within the institutional configuration, the unity of Designation reinforces his symbolic and political place in access to office. Selection by other authorities produces an effective guarantee only if the procedure is legally determined, autonomous, and sufficiently transparent to prevent their choice from being absorbed by presidential will.

The renewable six-year term also raises a difficulty. The possibility of renewal does not necessarily entail dependence: it may preserve institutional expertise. Yet it objectively creates a situation in which a member may seek a fresh selection and a fresh Designation. Comparatively, a lengthy non-renewable term is often preferred in order to reduce the incentive to seek the approval of an appointing authority. This solution should not be elevated into a universal rule; rather, it must be assessed whether renewal is offset by sufficient procedural safeguards (Rousseau, 2020).

The Constitution lays down general requirements of professional standing, moral integrity, and recognised competence. These formulations are useful, but they remain weakly operational where they are not translated into a verification procedure. No constitutional mechanism, for example, establishes a minimum period of legal experience, a mandatory professional composition, a public declaration of interests, a cooling-off period following partisan office, or a hearing of candidates. The absence of precision should not be understood as proof of individual partiality; it nevertheless expands the discretion of appointing authorities and makes the reasons for their choices less visible.

The selection of the President of the Council is, finally, a crucial point. Article 51 provides that the President of the court is selected from among the members by the President of the Republic. Yet the President organises the work of the institution, represents it, conducts deliberations, and may hold a casting vote where votes are equally divided. Direct selection by the Executive therefore gives particular force to presidential centrality. From a reform perspective, the issue is not limited to the number of members selected by each authority; it also concerns the way in which the person who directs the institution is chosen.

The distinction between selection and formal Designation has considerable practical significance. Where all selections are legally completed through the same presidential instrument, the plurality of proposals may be perceived as dependent on a single centre of validation. This configuration does not necessarily mean that every selecting authority lacks all autonomy, but it makes precise regulation of the final stage necessary: mandatory time limits, publication of decisions, impossibility of altering a properly made selection, and reasons for any obstruction. Without such safeguards, the textual distinction risks remaining purely nominal.

The presence of *ex officio* members - former Presidents of the Republic - raises a specific concern. This rule may be justified by the idea of institutional continuity and the recognition of State experience. It is nevertheless difficult to reconcile with a demanding conception of judicial neutrality, given that such persons have held the highest political office. The issue is not to dispute their personal competence, but to assess the effect that their automatic membership may have on the appearance of the body's impartiality. Reflection could be undertaken on converting this status into a non-deliberative advisory role, or on subjecting it to strict regulation.

Independence must also be assessed beyond access to office. Incompatibilities, duties of restraint, recusal rules, security of tenure, administrative autonomy, and the availability of resources condition the concrete exercise of a mandate. A reform focused solely on the allocation of seats would therefore risk shifting the problem without resolving it. A constitutional judge may be selected through a pluralistic procedure and still remain vulnerable if he or she lacks safeguards against conflicts of interest, informal pressures, or logistical dependence. Composition must consequently be considered together with status, budget, and adjudicatory procedure (Rousseau, 2020, pp. 56-86).

Institutional effects: actual independence, perceived independence, and the authority of decisions

Actual independence refers to the judge's capacity to decide without receiving instructions, fearing sanctions, or expecting political rewards. Perceived independence, by contrast, refers to the objective confidence that the institution can inspire in a reasonable observer. The two dimensions are related but not identical. A court may be legally independent while remaining lastingly suspected of political proximity; conversely, a widely respected institution may suffer from unexposed weaknesses in its statutory safeguards. In electoral litigation and review of politically sensitive legislation, the perception of impartiality is essential, because it conditions the acceptance of decisions by political competitors and citizens alike (Constitutional Council of Cameroon, Decision No. 001/CC/2018).

The authority of the Constitutional Council cannot therefore be inferred solely from the binding character of its decisions. It rests on the quality of its reasoning, the coherence of its case law, procedural equality of the parties, the publicity of proceedings where compatible with the nature of the litigation, and the existence of a composition that does not create the appearance of an extension of the Executive. A deficit of trust is particularly costly in times of crisis: a technically sound decision may be politically contested if the institution delivering it is regarded as structurally aligned.

This analysis requires methodological caution. It would be neither rigorous nor fair to conclude that every decision adverse to the opposition proves a lack of independence. Assessment must concern the overall framework of safeguards, the consistency of practices, avenues of review, the reasoning of decisions, and the court's capacity to exercise effective scrutiny over acts emanating from different authorities. The issue raised by selection lies above all in a structural risk and a vulnerability of legitimacy; it is this risk that comparative analysis can reduce through objective safeguards.

The Contribution of Comparative Analysis: Different Models For Regulating Designation

The purpose of comparison is not to oppose States assumed to be "independent" to States assumed not to be so. No Designation system eliminates politics from constitutional justice: constitutional judges occupy an institutional role that necessarily concerns public authorities. The value of comparison lies rather in identifying safeguards that render this political dimension more transparent, more balanced, and less likely to become a source of dependence. The examples of Benin, Senegal, and South Africa illustrate three distinct African paths; those of France and Germany reveal two European techniques of regulation, pluralisation, and consensus.

Table 1. Comparative overview of Designation mechanisms

System	Method of selection or Designation	Structural safeguards	Point requiring vigilance	Lesson for Cameroon
Cameroon	11 members; selections shared among the President, the presiding officers of both chambers, and the HJC; formal Designation by the President.	Constitutional requirement of competence and integrity; apparent plurality of sources.	The final act of Designation and selection of the head of the body are concentrated; term is renewable.	Separate the stages and make every choice verifiable.

System	Method of selection or Designation	Structural safeguards	Point requiring vigilance	Lesson for Cameroon
Benin	7 members: 4 appointed by the Bureau of the National Assembly and 3 by the President of the Republic.	Professional categories and experience specified; President elected by qualified members.	Political actors remain involved.	Objectify profiles and limit cumulative influence.
Senegal	7 members appointed by the President, including 2 from a list proposed by the President of the National Assembly.	Six-year non-renewable term.	Continuing centrality of the presidential act of Designation.	Non-renewability is useful but insufficient on its own.
South Africa	The President appoints after shortlisting led by the Judicial Service Commission.	Public nominations and interviews; candidate list drawn up through a pluralistic process.	The process remains institutionally and politically contested.	Create a pluralistic, public, and reasoned shortlisting process.
France	3 members appointed by the President of the Republic and 3 by each presiding officer of Parliament's chambers.	Nine-year non-renewable term; parliamentary oversight under Article 13.	Designation retains a strong political dimension.	Introduce genuine parliamentary scrutiny.
Germany	16 judges: one half elected by the Bundestag and one half by the Bundesrat.	Two-thirds majority; search for inter-party consensus.	Risk of political bargaining and deadlock.	Consider qualified majorities suited to the context.

Source: Constitution of Cameroon, art. 51; Constitutions of Benin, Senegal, South Africa, and France; BVerfGG.

African experiences: professionalisation in Benin and public shortlisting in South Africa

Senegal provides an important point of comparison because it confirms that the rule of a non-renewable term alone is insufficient to neutralise presidential centrality. Under Article 89 of the Senegalese Constitution, the Constitutional Council comprises seven members appointed by the President of the Republic, including two from a list of four persons proposed by the President of the National Assembly; the President of the Republic also appoints the President of the Council. The term is non-renewable. The model therefore contains a protective element - the absence of renewal - but retains a concentration of the Designation power. It demonstrates that safeguards must be combined: non-renewability, eligibility criteria, transparency, and effective plurality are stronger together than separately (Constitution of Senegal, art. 89).

Benin offers a particularly useful example for a Francophone African State. Article 115 of its Constitution provides for a Constitutional Court composed of seven members: four are appointed by the Bureau of the

National Assembly and three by the President of the Republic, for a five-year term renewable once. The Constitution does not merely allocate seats. It requires a professional composition: three judges with at least fifteen years' experience, two senior jurists who are professors or legal practitioners, and two persons of high professional standing. Members are irremovable during their term. Article 116 further provides that the President of the Court is elected by his or her peers from among the judges and jurists serving on the Court (Constitution of Benin, arts. 115-116).

This model does not eliminate political influence. The President of the Republic and the Bureau of the National Assembly retain a decisive role. It is therefore not a model of absolute depoliticisation. Its contribution lies in the density of its criteria and in the separation between the power of Designation and the leadership of the court. The constitutional requirement of professional categories prevents the reference to "competence" from remaining purely declaratory. The internal election of the President, for its part, limits the institution's identification with an external political authority. For Cameroon, the lesson is not to adopt an identical seven-member composition, but to turn general criteria into verifiable requirements: a minimum proportion of judges, professors, or experienced practitioners; specified periods of experience; political ineligibilities; and procedures for assessing integrity.

South Africa reflects another logic. The South African Constitution gives the President of the Republic a role in appointing judges of the Constitutional Court. However, the choice is made within a process previously structured by the Judicial Service Commission. The Commission draws up a list of candidates containing three more names than the number of vacancies, after calling for nominations and conducting public interviews. The President then chooses from this list after consulting the Chief Justice and the leaders of parties represented in the National Assembly (Constitution of South Africa, s. 174; Constitutional Court of South Africa).

The principal value of this model is procedural. The centre of gravity is not merely shifted from the Executive to another institution; it is placed in a pluralistic, visible shortlisting stage based on the assessment of applications. Public interviews do not by themselves guarantee a judge's future impartiality. They nevertheless require candidates to explain their careers and permit scrutiny of their professional qualities. The enlarged list limits the possibility of a wholly discretionary Designation. The South African example thus shows that procedural transparency is an autonomous safeguard, complementary to the formal distribution of Designation powers.

Cameroon could draw on this logic by establishing a pluralistic shortlisting commission composed of judges elected by their peers, representatives of the Bar, public- and private-law academics, independent figures from civil society, and representatives of the parliamentary chambers. Such a commission should not replace political power; it should screen applications on the basis of legal criteria, organise hearings, and transmit reasoned lists to the selecting authorities. Such a reform would be more consistent with Cameroonian constitutional tradition than merely transferring Designation power from one political authority to another.

The contrast between Senegal and Benin is useful for Cameroonian reform. In Benin, the numerical balance among sources of selection is not perfectly symmetrical, but the Constitution specifies more clearly the professional categories and minimum experience required of certain members. The office of President of the Court is filled through internal election among qualified members. These features do not render the Court wholly detached from political power relations; they nevertheless reduce the number of points at which a single authority can accumulate selection influence and hierarchical influence.

The South African experience, for its part, underscores the democratic value of exposing the process to public scrutiny. Publicity of applications and interviews may reveal shortcomings, generate contestation, and does not eliminate political choices. Yet it obliges candidates and selectors to place their choices within a space of public justification. For Cameroon, appropriately designed publicity - publication of criteria, shortlists, and summary minutes - could improve confidence without mechanically reproducing the entire South African system (Constitution of South Africa, s. 174).

European models: regulation of Designations in France and a logic of consensus in Germany

France is particularly instructive because its Constitutional Council also rests on the distribution of Designations among three political authorities: the President of the Republic, the President of the National Assembly, and the President of the Senate. Article 56 of the French Constitution provides for nine members appointed for non-renewable nine-year terms, with one third renewed every three years. It also provides that the review procedure in the final paragraph of Article 13 applies to these Designations. This procedure enables the competent parliamentary committees to oppose a Designation where the aggregate of negative votes reaches the constitutional threshold of three fifths of the votes cast (French Constitution, arts. 13 and 56).

The comparison with Cameroon is instructive in two respects. First, it recalls that sharing Designations among political authorities does not, in itself, provide a sufficient guarantee. France itself is the subject of recurring debate on the politicisation and legitimacy of its Constitutional Council. Secondly, it shows that procedural safeguards can surround political Designations: non-renewable terms, staggered renewal, publicity, and parliamentary oversight. These guarantees do not make selecting authorities apolitical; they reduce the scope for solitary decision-making and reinforce the public character of institutional justification.

Germany offers a more consensual logic. The Basic Law and the Federal Constitutional Court Act establish a court composed of sixteen judges, eight elected by the Bundestag and eight by the Bundesrat. For judges elected by the Bundestag, election requires a two-thirds majority of the votes cast and at least a majority of the members of the chamber. In the Bundesrat, judges are elected by a two-thirds majority. The President and Vice-President are elected alternately by the two bodies (BVerfGG, §§ 5-9; Basic Law, art. 94).

The German lesson is not that Parliament is always more independent than the Executive. Selection necessarily remains political, and negotiations among parties play a real role. Yet the qualified majority requires political forces to seek candidates capable of being accepted beyond a single camp. It transforms Designation into a requirement of compromise rather than the result of a simple majority. For Cameroon, transplantation must be cautious: the configuration of the Bundestag, the Bundesrat, and German federalism does not correspond to the Cameroonian system. Nevertheless, the idea of qualified-majority approval of candidates, at least for the President of the Constitutional Council or for members selected by Parliament, can be adapted to Cameroonian bicameralism.

The comparison thus yields four cumulative lessons. First, a plurality of selecting bodies must be accompanied by their actual autonomy. Secondly, competence must be objectified through professional criteria and a verification procedure. Thirdly, transparency - calls for applications, hearings, and reasoned decisions - increases legitimacy even where the final decision remains political. Fourthly, the most sensitive choices may be subjected to a logic of consensus. None of these techniques can, taken separately, guarantee independence; their combination nevertheless limits the possibilities of unilateral capture.

The French model adds a lesson in modesty: the parliamentary review introduced by Article 13 of the Constitution does not transform the Constitutional Council into an apolitical court. Rather, it creates an institutional right of opposition when the competent committees express a qualified negative majority. This procedure is useful only where the debate is genuine, dossiers are accessible, and parliamentary committees have independent evaluative capacity. Its value for Cameroon lies less in the precise three-fifths threshold than in the principle that the power to appoint must be exposed to institutional scrutiny (French Constitution, arts. 13 and 56).

The German model calls for even more careful adaptation. The two-thirds rule was designed within a different federal, bicameral, and partisan system. It cannot be transplanted as a magic formula. It nevertheless recalls that Designations to constitutional courts gain legitimacy where they require candidates who are not exclusively acceptable to the majority camp. In Cameroon, a qualified majority could be retained for validating certain candidates, provided that it does not become a mechanism of permanent deadlock (BVerfGG, §§ 5-9).

Comparison also reveals that a Designation arrangement has force only when it forms part of an institutional ecosystem. The most credible courts are not merely those that distribute seats more effectively; they also benefit

from clear procedural rules, an autonomous registry, budgetary guarantees, a culture of legal debate, and a civil society capable of following their decisions. Independence is therefore not an attribute gained once and for all through reform of Article 51; it is an institutional practice that must be maintained.

Comparative synthesis: what the selected models make it possible to avoid and what they do not resolve

The examples considered reveal three families of safeguards. The first is structural: it concerns the effective dispersal of Designation power, the internal election of the head of the court, and the prevention of cumulative influence. The second is procedural: it concerns calls for applications, publication of criteria, hearings, shortlists, and validation mechanisms. The third is statutory: it concerns length of tenure, renewal, incompatibilities, recusal, and autonomy of resources. No family is sufficient on its own; their combination is the true source of resilience.

Comparative law must nevertheless be used as an instrument of discernment, not as a catalogue of ready-made solutions. A pluralistic commission can be captured if its members are not themselves independent; a public hearing can become formalistic if it gives rise to no obligation of justification; a qualified majority can encourage consensus or, conversely, freeze Designations. The central question therefore remains the coherence between the rule adopted and the institutional environment that gives it life.

In the Cameroonian case, the most immediately transferable element is not the suppression of all presidential involvement, but the disconnection of the different stages that are currently concentrated: shortlisting, selection, formal Designation, selection of the President of the Council, and influence over the judicial selecting body. The more these stages are entrusted to distinct, visible, and accountable authorities, the more difficult it becomes to reduce the Council to an extension of a single branch of power (Fombad, 2011; Loada, 2006).

Towards A Contextualised Reform: Making Pluralism Effective Without Disregarding Cameroonian Realities

The historical and comparative analysis invites us to avoid two pitfalls. The first would be to consider that Cameroonian constitutional justice could become independent only by excluding all political intervention in Designations. Such a solution is unrealistic: constitutional judges participate in the regulation of political life and, in many democratic States, political institutions take part in their selection. The second pitfall would be to believe that the existing text is sufficient simply because it provides for several selecting authorities. Reform should therefore seek not the elimination of all politics, but its channeling through safeguards that make competence, plurality, and transparency stronger than loyalty.

A. Reorganising the selection procedure: from discretion to verifiable selection

A first reform should consist in clearly distinguishing four phases: the call for applications, assessment of profiles, selection by the competent authority, and assumption of office. The Constitution or an organic law should require publication of vacancies, a period for applications, a standardised file, and a declaration of interests. Publicity should not be treated as an intrusion into justice; on the contrary, transparency is a means of protecting the future judge from the suspicion of a preferential Designation.

An independent shortlisting commission could verify objective conditions: nationality, experience, competence in constitutional law or in a high-level legal field, integrity, absence of conflicts of interest, incompatibilities, and independence from recent partisan activities. Its lists of candidates should be transmitted with a reasoned opinion. Political authorities would retain part of the choice, but would be required to choose among persons whose qualifications had been publicly assessed. This solution draws on the South African filtering stage without seeking to reproduce the Judicial Service Commission exactly.

A second reform should specify the professional composition of the Council. The Beninese model demonstrates the value of reserving a certain number of seats for experienced judges and senior jurists. Cameroon could, for example, guarantee a minimum presence of career judges, law professors, or lawyers with substantial professional experience. The objective is not to turn the Council into a career court, but to ensure that the requirements of recognised competence and professional standing can be objectively verified.

Renewal of tenure also merits discussion. Two options are possible. The first is to retain a renewable term but require that any renewal follow a full, public, and independent shortlisting procedure. The second is to adopt a longer, single, non-renewable term, thereby reducing the incentive to seek future approval from appointing authorities. The choice belongs to the constituent authority. In view of the risk of dependence created by renewal administered within a presidentialised environment, a single term nevertheless appears more consistent with the objective of independence (French Constitution, art. 56).

Finally, incompatibility with political functions should be strengthened. A person who has recently held ministerial office, a leadership position in a political party, or a cabinet position with an appointing authority could be subject to a cooling-off period before joining the Council. This rule should not be understood as a sanction against political experience; it is intended to protect the court from the appearance of immediate continuity between a partisan or executive function and a constitutional review function.

The organic law should also define a minimum duty to give reasons. Selecting authorities would not be required to disclose political considerations, but they should set out, for each chosen candidate, the elements relating to experience, competence, and integrity. Such reasoning would not merely serve as a possible instrument of judicial review; it would create a culture of justification that would make reliance on purely personal or partisan criteria more costly.

A more precise recusal mechanism is equally necessary. A member who has participated, in the recent exercise of governmental, parliamentary, partisan, or administrative functions, in the drafting or defence of an act submitted to review by the Council should be able to withdraw. Recusal does not call the person's honour into question; it protects the authority of the institution. For this purpose, a declaration of interests upon assuming office and periodic updating of professional, financial, or associative connections should be required (Law No. 2004/005 of 21 April 2004).

Finally, publication of an annual report on Designations would constitute a simple and useful safeguard. The report could indicate the number of applications received, the professional categories represented, the criteria applied, any identified conflicts of interest, and the measures taken to ensure diversity. Such transparency does not require disclosure of sensitive data; it would make it possible to verify that the objective of professionalisation does not remain merely declaratory.

B. Reducing presidential concentration points and strengthening institutional autonomy

Reducing presidential influence does not mean excluding the President of the Republic altogether. It means reducing the points at which presidential intervention accumulates with that of other bodies. The first of these points is the formal Designation of all members. A reform could provide that selections made by the President of the National Assembly, the President of the Senate, and the Higher Judicial Council take effect directly after a legality review by an independent authority, or that the presidential act of Designation be legally bound by the proposal of the competent authority within a specified time limit. The power that completes the process would then be reduced to a function of certification rather than a potential site of political reconfiguration.

The second point is the presidency of the Constitutional Council. The Beninese solution, under which members of the Court elect their President, offers a serious avenue. The President could be elected, for a period fixed by law, by a majority of Council members from among jurists or judges meeting the highest experience criteria. Such a reform would strengthen the collegiality of the institution and reduce the personalisation of its relationship with the Executive. It could be accompanied by an elected Vice-President and more precise rules on the allocation of cases.

The third point is the Higher Judicial Council. Since that body takes part in selecting two members, its autonomy is a condition of the credibility of its contribution. The existing arrangement, in which the Head of State chairs the Higher Judicial Council, creates tension between the formal guarantee of judicial independence and Executive influence over the principal levers of judicial career management (Constitution of Cameroon, art. 37; Law No. 82/14). A reform could entrust the chairmanship of the HJC to the First President of the Supreme Court, to a judge elected by his or her peers, or to an independent judicial figure selected through a pluralistic procedure.

It should also expand the place of judges elected by their peers and reduce the weight of ex officio members dependent on the Executive.

The fourth point concerns parliamentary scrutiny. The French procedure and the German logic suggest two complementary options: public hearings and qualified-majority voting. Candidates proposed by the President of the Republic, as well as those proposed by the Bureaux of the parliamentary chambers, could be heard by a joint parliamentary committee. For the strategic Designations - particularly the presidency of the Council - confirmation by a qualified majority of Parliament sitting in Congress could be required. A qualified majority is not a magical safeguard: it generates consensus only where parliamentary debate is genuine. It remains, however, a useful mechanism for preventing a simple majority from turning the court into an immediate extension of its political preference.

These measures must be accompanied by functional safeguards. Organic independence loses much of its force where the court depends on the Executive for resources, administration, or its timetable. The organic law should strengthen the budgetary and administrative autonomy of the Constitutional Council, establish a transparent procedure for recruiting staff, and guarantee the stability of its appropriations. The authority of the constitutional judge does not rest solely on the origin of members; it depends on the material capacity to investigate cases, publish decisions, and ensure respect for its rulings.

Revision of Article 51 should also clarify the scope of intervention of each selecting authority. One option would be to retain the three seats allocated to the presidency, the three seats allocated to the National Assembly, the three seats allocated to the Senate, and the two seats allocated to the Higher Judicial Council, while removing the requirement of a single act of Designation by the President of the Republic. Each authority could then issue its own instrument, which would be published and immediately effective, subject to a legality review conducted by a non-political body. This amendment would preserve the numerical balance of the text while reducing both the symbolism and the risk of centralisation.

Budgetary autonomy must be conceived as a guarantee of independence rather than an administrative privilege. An identifiable budget, voted by Parliament and executed under the responsibility of the institution, together with the capacity to recruit legal and administrative staff according to professional criteria, would enable the Council to avoid day-to-day dependence on Executive services. Publication of an activity report and a budget-execution report would simultaneously strengthen its independence and democratic accountability (Law No. 2004/004 of 21 April 2004).

Finally, a transitional timetable should be organised. Reform of Designations must not disrupt a court already in office. The new rules could apply to seats that become vacant, while members already serving would complete their terms under existing provisions. Such gradualism would preserve legal certainty and prevent reform itself from being perceived as an operation of institutional destabilisation.

C. Making reform a project of constitutional culture

Legal reforms will produce lasting effects only if they are accompanied by a culture of separation of powers. Political authorities must accept that the invalidation of an act or the annulment of an election does not necessarily constitute institutional hostility, but rather the ordinary exercise of a constitutional function. For their part, members of the Constitutional Council must give practical effect to the safeguards of restraint, reasoned decision-making, and collegiality on which their authority rests. Judicial independence is as much a practice as it is a status.

Universities, professional bodies, the media, and civil-society organisations can contribute to this constitutional culture by monitoring selection procedures, analysing case law, and defending criteria of competence rather than personal loyalty. Opening Designation procedures should not be understood as the media politicisation of justice. It is a form of democratic accountability: it provides citizens with the information needed to understand why a person is called upon to exercise such a strategic office.

In the longer term, broader access to the constitutional judge in rights-based litigation could strengthen the institution's legitimacy. A court more accessible to citizens' constitutional concerns is less easily reduced to a body regulating only conflicts among political elites. This question extends beyond selection, but clarifies what is at stake: the profile of judges, their independence, and the avenues for bringing cases must be regarded as components of the same project of constitutional justice.

The construction of a constitutional culture also requires the availability of information. Applicable texts, decisions, admitted electoral observations, procedural rules, and litigation calendars should be published in an accessible manner. Stronger documentary transparency would enable academics, lawyers, and citizens to assess the institution on the basis of its acts rather than assumptions or rumours.

Finally, reform should be preceded by serious institutional consultation. Judges, lawyers, academics, parliamentarians, civil-society organisations, and representatives of different territorial sensibilities should be able to discuss selection criteria and safeguards of independence. Such consultation does not entail a renunciation of the constituent authority's competence; it is a condition of democratic ownership, particularly important where reform concerns the arbiter of political conflicts.

CONCLUSION

The study of the Designation of constitutional judges in Cameroon confirms that the question of independence cannot be reduced to an abstract opposition between constitutional legality and presidential influence. The 1996 Constitution establishes a plurality of selections which, taken in isolation, appears to limit the concentration of power. Yet the unity of the formal Designation act in the hands of the President of the Republic, presidential selection of the head of the court, the presidentialised environment of selecting institutions, and the structural dependence of the Higher Judicial Council diminish its practical effect.

Taking historical and political factors into account provides a better understanding of this situation. Cameroonian constitutional justice emerged along a trajectory of constructing a strongly centralised unitary State, before being incorporated into the pluralist reforms of the 1990s. The delay between its normative creation and its effective installation in 2018 shows that a constitutional institution does not acquire autonomy solely by virtue of its inclusion in a text. Its autonomy depends on its activation, resources, the quality of its members, and the willingness of other branches to accept constitutional review.

Comparative analysis offers concrete lessons. Benin demonstrates the value of a constitutionally structured professional composition and a presidency elected by judges. South Africa highlights the role of pluralistic, public shortlisting based on the assessment of applications. France shows that political Designation can be surrounded by tenure guarantees and procedural oversight. Germany illustrates the usefulness of a qualified majority for fostering compromise. These experiences are not models to be transplanted; they form a repertoire of adaptable techniques.

Cameroonian reform should therefore be gradual but substantive. It should distinguish the initiative of selection from the final act of Designation, establish an independent shortlisting commission, make competence criteria verifiable, strengthen incompatibilities, select the President of the Council through a collegial procedure, secure the autonomy of the Higher Judicial Council, and protect the budgetary and administrative autonomy of the Constitutional Council. These measures would not, on their own, guarantee independent decisions. They would nevertheless alter the conditions under which independence can be exercised and recognised.

Ultimately, the credibility of Cameroonian constitutional justice will depend on its capacity to be perceived not as the appendage of a branch of power, but as an institution of the Constitution. Such credibility cannot be proclaimed: it is built through demanding rules of selection, political practices of restraint, reasoned case law, and a democratic culture in which control of power is accepted as a normal requirement of the rule of law.

The comparative approach confirms that constitutional courts do not become independent because they cease to have all relations with politics. They become more independent when that relationship is exposed, pluralised, and contained by professional criteria, public procedures, and institutional counterweights. Benin highlights the

value of more detailed qualifications and internal leadership; South Africa underscores the value of open shortlisting; France illustrates the role of parliamentary scrutiny; Germany recalls the importance of consensus; and Senegal demonstrates, conversely, the limits of non-renewability where it is not accompanied by a sufficient dispersal of Designation power.

The proposed reform therefore does not call for institutional imitation. It recommends adaptation: clarification of the distinction between selection and formal Designation, publication of vacancies and criteria, pluralistic shortlisting, conflict-of-interest review, internal leadership or at least a pluralised selection procedure, greater autonomy for the Higher Judicial Council, meaningful parliamentary scrutiny, and material guarantees of independence. These mechanisms would make competence more visible and political loyalty less decisive.

Ultimately, the future of constitutional justice in Cameroon will depend less on multiplying declarations of independence than on the capacity of law to organise verifiable practices of independence. Situating the Designation of constitutional judges within its political history and confronting it with African and international experiences does not diminish Cameroonian specificity; on the contrary, it makes it possible to identify precisely the transformations necessary for the Constitutional Council to be perceived and to act as a genuine guardian of the Constitution, rights, and the balance of powers.

BIBLIOGRAPHY

Constitutional and legislative instruments

1. Constitution of the Republic of Cameroon, Law No. 96/06 of 18 January 1996 revising the Constitution of 2 June 1972, as amended by Law No. 2008/001 of 14 April 2008, arts. 37, 46, 50, and 51.
2. Law No. 82/14 of 26 November 1982 to lay down the organisation and functioning of the Higher Judicial Council, as amended by Law No. 89/16 of 28 July 1989.
3. Law No. 2004/004 of 21 April 2004 to lay down the organisation and functioning of the Constitutional Council, as amended by Law No. 2012/015 of 21 December 2012.
4. Law No. 2004/005 of 21 April 2004 to lay down the status of members of the Constitutional Council, as amended by Law No. 2012/016 of 21 December 2012.
5. Decree No. 2018/105 of 7 February 2018 appointing members of the Constitutional Council.
6. Decree No. 2018/106 of 7 February 2018 appointing the President of the Constitutional Council.
7. Constitution of the Republic of Benin of 11 December 1990, as revised by Law No. 2019-40 of 7 November 2019, arts. 115 and 116.
8. Constitution of the Republic of Senegal, art. 89.
9. Constitution of the Republic of South Africa, 1996, s. 174.
10. Constitution of the French Republic of 4 October 1958, arts. 13 and 56.
11. Bundesverfassungsgerichtsgesetz (BVerfGG), §§ 5-9.

Case law and institutional documents

1. Constitutional Council of Cameroon, Decision No. 001/CC/2018 of 20 October 2018 concerning litigation arising from the presidential election.
2. Constitutional Council of Senegal, “How is the Constitutional Council composed?”, institutional website, accessed June 2026.
3. Constitutional Court of South Africa, “Judicial Service Commission Designations process”, institutional website, accessed June 2026.

Secondary sources

1. FOMBAD, Charles Manga, “The New Cameroonian Constitutional Council in a Comparative Perspective: Progress or Retrogression?”, *Journal of African Law*, vol. 42, no. 2, 1998, pp. 172-186.
2. FOMBAD, Charles Manga, “The Separation of Powers and Constitutionalism in Africa”, *African Journal of Legal Studies*, vol. 5, no. 1, 2011, pp. 85-104.

3. KAMTO, Maurice, Pouvoir et droit en Afrique noire [Power and Law in Black Africa], Paris, LGDJ, 1987.
4. LOADA, Augustin, “Justice constitutionnelle et démocratie en Afrique : entre idéal et réalité” [Constitutional Justice and Democracy in Africa: Between Ideal and Reality], *Revue internationale de droit comparé*, vol. 58, no. 1, 2006, pp. 139-170.
5. MBAKU, John Mukum, “Judicial Independence, Constitutionalism and Governance in Cameroon”, *European Journal of Comparative Law and Governance*, vol. 1, 2014, pp. 357-391.
6. ROUSSEAU, Dominique, Droit du contentieux constitutionnel [Constitutional Litigation Law], 11th ed., Paris, LGDJ, 2020.