

REPUBLIC OF THE CONGO

The New Constitution (2002)
Saturday, December 22, 2001

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TITLE I

The State and Sovereignty

Article 1

The Republic of the Congo is a Sovereign State, indivisible, secular, social and democratic.

Article 2

The principle of the Republic is: Government of the people by the people and for the people.

Article 3

National sovereignty belongs to the people who exercise it by means of universal suffrage by its elected representatives or by way of referendum.

Article 4

Suffrage is universal, free, equal, direct and secret. The mode of election, the conditions of eligibility as well as the incompatibilities are established by law.

Article 5

The national emblem is a tri-colored flag, green, yellow, red. Of rectangular form, it is composed by two triangles of green and red colors, separated by a diagonal yellow band, the green being on the side of the flagstaff. The law specifies the dimensions, the tones of colors and the other details of the flag.

Article 6

The national anthem is “La Congolaise.” The motto of the Republic is “Unity, Work, Progress.” The seal of the State and coat of arms of the Republic is determined by law. The official language is French. The national functional (*véhiculaires*) languages are lingala and the Kituba.

TITLE II

Rights and Fundamental Liberties

Article 7

The human person is sacred and has the right to life. The State has the absolute obligation to respect it and to protect it. Every citizen has the right to free development and to the full flowering of its personality (*personne*) with respect for the rights of others, public order, morals and good manners.

Article 8

All citizens are equal before the law, without discrimination based on origin, social or material situation, racial, ethnic or departmental, gender (*le sexe*) instruction, language,

religion, philosophy or place of residence. Women have the same rights as men. The law guarantees to them the promotion to all political, elective and administrative functions.

Article 9

The freedom of the person is inviolable. No one may be arbitrarily accused, arrested or detained. All acts of torture, cruel, inhuman or degrading treatment or prohibited. All accused shall be presumed innocent until their culpability is established following a procedure which provides the rights of defense.

Article 10

War crimes, crimes against humanity, the crime of genocide are punished within the conditions determined by the law. They are imprescriptible. Any propaganda or incitement to ethnic hatred, to violence and to civil war constitute a crime

Article 11

Any citizen, in any place, has the right to the recognition to his (or her) juridical personality.

Article 12

Any Congolese has the right to Congolese citizenship under conditions established by law. He (she) has the right to change his (her) nationality.

Article 13

Any individual, any agent of the State, is exempted (*délié*) from the duty of obedience when the received order constitutes a serious and manifest threat to the respect for human rights and public liberties.

Article 14

The domicile is inviolable. Searches can only be ordered in the forms and conditions provided for by law.

Article 15

The right of asylum is accorded to foreigners under conditions determined by law.

Article 16

Every citizen has the right to circulate freely on the national territory, if not the object of judicial proceeding, and to return there.

Article 17

The right of property and the right of succession are guaranteed. No one can be deprived of his (her) property except for reasons of public utility with just and prior indemnification, under conditions provided by law.

Article 18

The freedom of belief and the freedom of conscience are inviolable. The misuse (usage) of religion for political purposes is prohibited.

Article 19

All citizens (*tout citoyen*) have the right to express and to diffuse freely their opinion by speech, by writing, by image and any other form of communication. The freedom of the press and the freedom of information are guaranteed. Censorship is prohibited. Access to the sources of information is free. Every citizen has the right to information and communication. The activities relative to these domains shall be exercised with respect for the law.

Article 20

The secrecy of correspondence, of telecommunications, or any other form of communications shall not be violated, except in a case specified by law.

Article 21

The State recognizes and guarantees under conditions specified by law, the right to go and to come, to assemble peacefully, (and) the right of association, reunion, cortege and manifestation.

Article 22

The right to culture and to respect of cultural identity of every citizen is guaranteed. The exercise of this right may not prejudice others or national unity.

Article 23

The right to education is guaranteed. Instruction is placed under the scientific and pedagogic authority of the State. Equal access to instruction and to the professional formation is guaranteed. Instruction provided in public establishments is free. School attendance (*scolarité*) is obligatory until the age of sixteen. The right to create private establishments of education is guaranteed. They are regulated by the law.

Article 24

The State recognizes to all citizens the right to work and seeks to create conditions which render effective the enjoyment of this right.

Article 25

Except for the agents of the Public Force, all Congolese citizens have (*jouissent*) the right to unionize and the right to strike under conditions established by law.

Article 26

No one shall be subjected to forced labor, except in the case of a sentence, depriving liberty, pronounced by a legally established jurisdiction. No one can be reduced to slavery.

Article 27

Every person has the right to enterprise in the sectors of his choice, within the respect of the law.

Article 28

Every person has the right to rest and to leisure, notably to a limitation of the duration of work and periodic vacations as well as to remuneration on holidays.

Article 29

Every citizen has the right to the protection of moral and material interests, involving all scientific, literary or artistic work of which he (she) are authors. The sequestration, seizure, confiscation, interdiction of all or part of any publication, of any registration or any other form of communication cannot be performed except on the basis of a judicial decision.

Article 30

The State is the guarantor of public health. The right to create private socio-sanitary establishments is guaranteed. They are regulated by law. Aged and handicapped persons have the right to specific measures of protection in accord with their physical and moral needs.

Article 31

The State has the obligation to assist the family in its mission as guardian of the morality and the traditional values recognized by the community. The rights of the mother and the child are guaranteed.

Article 32

Marriage and the family are under the protection of the law. All the children that are born within or outside the marriage, have, in regard to their parents, the same rights and duties. They enjoy the same protection in terms of the law. Parents have the same obligations and duties regarding their children.

Article 33

Every child, without discrimination of any kind has a right on the part of its family, society and the State to protection measures which its condition requires.

Article 34

The State must protect children and adolescents against economic and social exploitation. Work by children under sixteen years is prohibited.

Article 35

Every citizen has the right to a healthy satisfying and durable environment and the duty to defend it. The State watches over the protection and conservation of the environment.

Article 36

The conditions of storing, manipulating, incinerating and discharging toxic, polluting or radioactive wastes that come from factories or other industrial or manufacturing units installed on the national territory are fixed by the law. All pollution or destruction resulting from economic activity provides right(s) for compensation.

Article 37

The transit, importation, storage, concealment, dumping in the continental waters and maritime spaces under national jurisdiction, emission in the airspace of toxic wastes, pollutants or radioactive (materials) or other dangerous products of foreign origin constitute a crime punishable by law.

Article 38

Any act, any accord, any convention, any administrative arrangement of any other act, which has a direct or indirect consequence, which deprives the nation or any part of it, of the means of existence derived from its resources or its natural riches, is considered a crime of pillage and punished by law.

Article 39

The acts referred to in the preceding Article as well as their attempts whatever may be their modalities, if they are the acts of a constituted authority, shall, as the case may be, punished as a crime of high treason or as an act of forfeiture.

Article 40

Every Congolese citizen has the right to present requests to the appropriate organs of the State.

Article 41

Every citizen, who experienced a prejudice by an act of the administration, has the right to seek justice, in the forms determined by the law.

Article 42

Foreigners possess (*bénéficient*), on the territory of the Republic of Congo, the same rights and liberties as the nationals under conditions determined by the treaties and law, under the reservation of reciprocity.

TITLE III

Duties

Article 43

Every citizen has duties toward the family, the society, the State and other legally recognized societies.

Article 44

Every citizen has the duty to respect his cohorts (*semblables*) without discrimination, and maintain with them relations which permit to promote and reinforce reciprocal tolerance. It is held to preserve cultural national values in a spirit of dialogue and concertation, to contribute to the reinforcement of cohesion and national solidarity.

Article 45

Every citizen has the duty to preserve the peace, national independence, territorial integrity and to contribute to the defense of the country. Treason, espionage for the profit of a foreign country, aid to the enemy in times of war, as well as all forms of threats to the security of the State shall be reprimanded (*réprimé*) by the law.

Article 46

Every citizen is expected to work in measure of his (or her) capacities and possibilities.

Article 47

Public goods are sacred and inalienable. Every Congolese citizen must respect them scrupulously and protect them. The law specifies the conditions for the alienation of public goods in the public interest. Any act of sabotage, vandalism, corruption, illicit enrichment, dissipation, abuse and dilapidation of goods is reprimanded within the conditions determined by the law.

Article 48

Every citizen, appointed or elected to high public function, is expected to declare his (her) patrimony when assuming his (her) functions and at the cessation, in conformity with the law. Failure to observe his obligation entails the termination of the functions under conditions specified by law.

Article 49

Every citizen, charged with a public function, or elected to a public function, has the duty to accomplish it conscientiously and without discrimination.

Article 50

Every citizen has the duty to conform to the Constitution, the laws and regulations of the Republic and to discharge his (her) obligations toward the State and the Society.

TITLE IV

Political Parties

Article 51

The political party is an association endowed with moral personality which rallies citizens around a project of democratic society dictated by the desire to realize the general interest.

Article 52

The political (shall) have a national character and shall not identify themselves in the form, action or, whatever manner, with an ethnicity (ethnic), a department, a religion or a sect.

Article 53

The political parties are recognized in conformity with the Constitution and the law. To be recognized, they are expected to notably adhere to the following fundamental principles:

- the respect, the safeguarding and the consolidation of national unity;
- the protection and the promotion of fundamental rights of the human person;
- the promotion of the State of law, founded on the respect and the defense of democracy, individual and collective rights;
- the defense of the integrity of the territory and the national sovereignty;
- the prescription of intolerance, ethnicism, regionalism, recourse to violence in all its forms;
- the secular character of the State: political parties which in their functioning do not conform to the above stated principles, are susceptible to dissolution.

Article 54

The State assures the financing of political parties. The law determines the conditions and the modalities of the financing of political parties.

Article 55

It is prohibited for political parties to receive financing from abroad. Equally prohibited is any course of a nature which threatens the independence and the national sovereignty.

TITLE V Executive Power

Article 56

The President of the Republic is the Head of the State. He incarnates the national unity. He watches over the respect of the Constitution and the regular functioning of the public institutions. He protects the arts and the letters. He is the holder of the executive power. He is the head of the government. He determines and conducts the policy of the Nation. He disposes over the regulatory power and assures the execution of the laws. The President is the guarantor of the continuity of the State, (and) the national independence, the territorial integrity and the respect of accords and international treaties.

Article 57

The President of the Republic is elected for seven years by universal and direct suffrage. He is re-eligible one single time.

Article 58

No one can be a candidate for the functions of President of the Republic:

- if he is not of original Congolese nationality;
- if it is established that he possesses dual nationality;
- if he does not possess civil and political rights;
- if he is not of good morality;
- if he does not attest to a professional experience of at least fifteen years;
- if he is not at least forty years or seventy years at the most on the day of the deposit of his candidacy;
- if he does not reside in an interrupted manner on the territory of the Republic of Congo on the moment of the deposit of his candidacy for twenty four months;
- the obligation of residence, indicated in the present articles, is not applied to persons designated by the State to occupy a post or to carry out (*accomplir*) a mission abroad and international functionaries;
- he is not in possession of good physical and mental well-being, duly determined by sworn physicians, designated by the Constitutional Court.

Article 59

The President of the Republic shall be elected by an absolute majority of the votes cast. If it is not obtained in the first round of balloting, it shall be followed, twenty one days later, by a second round. Only the two candidates who have received the largest number of votes in the first round may present themselves as candidates. In the second round the candidate having won the majority relative to the votes cast, shall be declared elected.

Article 60

The candidates in the presidential elections, having obtained at least fifteen percent of the votes cast, benefit by a protection and advantages specified by the law.

Article 61

The convocation of the voters by a decree made in the Council of Ministers.

Article 62

The first round of the election of the President of the Republic shall take place at least thirty years and at most forty days before the date of the expiration of the mandate of the incumbent President of the Republic.

Article 63

If, before the first round, one of the candidates does or finds himself definitively incapacitated, the Constitutional Court declares the recall of the election. In case of the death or a definitive incapacity of one of the two most favored candidates in the first round, the constitutional Court shall declare that there will be a new ensemble of electoral operations; the same shall take place in case of the death or definitive incapacity of one of the two candidates remaining for presentation in the second round. In the case referred to in paragraphs 1 and 2 above, the Constitutional Court seated, either by the President of the Republic or by the National Assembly or by anyone interested, prior agates the time periods, referred in article 62, so long as the balloting can take place ninety days after the decision by the constitutional Court. If the application of the provisions of the present paragraph shall have the effect of recalling the presidential election, the incumbent President shall remain in office until the oath of his successor.

Article 64

The law stipulates the conditions and the procedure of eligibility, the presentation of the candidates, the balloting, the counting of the votes and the proclamation of the results of the election of the President of the Republic. It shall make all the necessary provisions so that the elections are free, transparent and regular.

Article 65

If no challenge has been made within a time limit of five days and if the Constitutional court deems that the election was not blemished by any irregularity of a nature resulting in the annulment of the election, it shall proclaim the election of the President of the Republic within fifteen days following it's activation. In the event of a contest, the Constitutional Court shall announce it with a period of fifteen days from the time of its activation.

Article 66

In case of an annulment of the election by the Constitutional Court, new elections shall be organized within a period of fifty to ninety days. In such case, the incumbent President of the Republic remains in office until the delivery of the oath of the new elected President of the Republic.

Article 67

In case of the death or definitive incapacity of the elected President before assuming his function new elections and scheduled within a period fifty to ninety days. The incumbent President of the Republic remains in function until the delivery of the oath by the new elected President of the Republic.

Article 68

The mandate of the President of the Republic begins on the day of his oath and ends at the expiration of the seventh year following date of the assumption of his function. In delivery of the oath of the new President of the Republic shall take place twenty days at the latest after the proclamation of the election by the Constitutional Court.

Article 69

When he enters office, the President of the Republic shall take the following oath:

“Before the Nation and the Congolese People, the sole possessor the sovereignty; I (name of elected), President of the Republic, solemnly swear—

- to respect and defend the Constitution and the republican form of the State;
- to fulfill loyally the high functions that the Nation has confided in me;
- to guarantee the respect of the fundamental rights of the human person and the public liberties;
- to protect and respect the public good;
- to consecrate the wholeness (*intégralité*) of the natural resources to the development of the Nation;
- to guarantee peace and justice to all;
- to preserve the national unity and the integrity of the territory, sovereignty and national independence.”

The oath shall be received by the Constitutional Court in the presence of the National Assembly and the Supreme Court.

Article 70

In case of a vacancy of the Presidency of the Republic, due to resignation or any other definitive impediment, the functions of the President of the Republic, with the exception of those mentioned in Articles 74, 84 and 86, are provisionally exercised by the President of the Senate. The vacancy of power is noted and declared by the Constitutional Court, on notification (*saysie*) by the President of the National Assembly.

Article 71

The maximum duration of the interim is ninety days. The balloting for the election of the President of the Republic shall take place, except in case of force majeure, noted by the constitutional Court, ninety days at the most after the opening of the vacancy. During the interim the President of the Senate, assuring the functions of the President of the Republic, may not dismiss the ministers, nor exercise the pardoning power, nor proceed to the revision of the Constitution. The President of the Senate, assuring the interim of the President of the Republic, cannot be a candidate in a presidential election.

Article 72

The functions of President of the Republic are incompatible with the exercise of any other elective mandate, any public employment, civil or military, and any professional activity. The mandate of the President of the Republic is equally incompatible with any responsibility at the center of a political party.

Article 73

During their term (*fonctions*), the President of the Republic and the Ministers, cannot, by themselves, or by intermediaries purchase of least anything that belongs to the domain of the State. They may not take part in public sales or purchases and adjudications for the administrations or the institutions in which the State has interests. They receive (*perçoivent*) a treatment (*traitement*) the amount (*montant*) of which is determined by a decree taken in the Council of Ministers. The President of the Republic occupies an official residence.

Article 74

The President of the Republic appoints the ministers who shall be responsible to him. He puts an end to their functions. He determines by decree the attributions of each minister. He can delegate a part of his powers (*pouvoirs*) to a minister.

Article 75

The functions of a minister are incompatible with the exercise of any parliamentary mandate, any public employment, civil or military and any professional activity, with the exception of agricultural, cultural or teaching. They are equally incompatible with the position (*qualité*) of a member of an organ of a local collectivity, an administrative council or of a directly committee of a public enterprise.

Article 76

Every minister is accountable (*justiciable*) before the High Court of Justice for crimes and offenses committed by him in the exercise of his functions.

Article 77

The President of the Republic appoints to the high civil and military functions in the Council of Ministers. He appoints to high civil and military employment. The law determines the functions and employment which are decided in the Council of Ministers. He appoints the ambassadors and the extraordinary Envoys to foreign powers and international organizations. The ambassadors and extraordinary Envoys are accredited to him.

Article 78

The President of the Republic is the Supreme Chief of the Armies. He presides at the councils and committees of defense.

Article 79

The President of the Republic is the President of the Superior Council of the Magistrature.

Article 80

The President of the Republic exercises the right of pardon.

Article 81

The President of the Republic presides over the Council of Ministers. The Council of Ministers deliberates on:

- draft laws;
- drafts of ordinances and regulatory decrees.

Article 82

The acts of the President of the Republic other than those referred to in Articles 74, 86 and 88 are countersigned by the Minister charged with their execution.

Article 83

The President of the Republic has the legislative initiative concurrently with the members of the National Assembly. He assures the promulgation of the laws within twenty days in the twenty days following the transmission to him, which is made by the President of the National Assembly. He can, before the expiration of his time limit, demand from Parliament a second deliberation of the law or certain Articles of it. This second deliberation cannot be refused. If the Parliament is at the end of its session, the second deliberation takes place during the following ordinary session. The vote, for this second deliberation, requires a majority of two-thirds of the members of the National Assembly and the Senate reunited as Congress, if, after the last vote, the President of the Republic refuses to promulgate the law, the Constitutional Court, seized by the President of the Republic, or by the President of one or the other chambers of Parliament, proceed to a control of the conformity of the law. If the Constitutional Court declares that the law conforms to the Constitution, the President (must) promulgate the law.

Article 84

When the institutions of the Republic, the independence of the Nation, the integrity of the national territory or the execution of international engagements are threatened in a grave and imminent manner, and the regular functioning of the public powers is menaced or interrupted, the President of the Republic, after consultation with the Presidents of the two chambers of Parliament and the President of the Constitutional Court, take the exceptional measures required by the circumstances. He informs the Parliament by a message about it. The Parliament meets by right in an extraordinary session. The Parliament fixes the time limit after which the President of the Republic cannot take exceptional measures.

Article 85

The President of the Republic addresses, once a year a message to Parliament on the State of the Nation. He may, at anytime, address messages to the National Assembly and to the Senate. The messages do not provide for any debate.

Article 86

The President of the Republic may after consultation with the Presidents of the two chambers, submit to referendum any legislative project pertaining to the organization of the public powers, the liberties and the fundamental rights, economic and social action of the state or pertaining to the authorization of ratifying a treaty. Before submitting the project to referendum, the President the President of the Republic obtains the advise of the Constitutional Court on the conformity to the Constitution. In case of non-conformity with the Constitution, he cannot proceed to the referendum. The Constitutional Court watches over the regularity of the operations of the referendum when the referendum has concluded (in favor) of the adoption of the project, the law is promulgated under the conditions referred to in Article 83 (2).

Article 87

The personal responsibility of the President of the Republic cannot be invoked (*engagée*) except in case of high treason. High treason is involved, if , in violation of the Constitution or the law, the President commits, deliberately, an act, contrary to the superior interests of the nation, which compromised gravely the national unity, social peace, social justice, the development of the country or carries grave danger to the human rights, the integrity of the territory, the independence and national sovereignty. The President of the Republic cannot be impeached except by the National Assembly based on a vote by secret ballot by a majority of two-thirds of its members.

Article 88

The former President of the Republic, with the exception of those convicted for forfeiture, high treason, economic crimes, war crimes, genocide and all other crimes against humanity, benefit from the advantages of a protection under conditions determined by the law.

TITLE VI

Legislative Power

Article 89

The Parliament is composed of two chambers: The National Assembly and the Senate. The Parliament exercises the legislative power and controls the action of the executive.

Article 90

The members of the National Assembly carry the title of deputy. They are elected by universal direct suffrage. Every deputy is the representative of the entire Nation and any imperative mandate is null. The members of the Senate carry the title of Senator. They are elected by indirect suffrage by the councils of local collectivities. They represent the local territorial collectivities of the Republic. The Senate exercises, in addition to its legislative function, that of moderator (*modérateur*) and adviser of the Nation.

Article 91

The functions of deputy and senator give rise to the reimbursement of travel expenses and the payment of compensation for the sessions(s), whose rate and conditions of attribution are set by law.

Article 92

The duration of the mandate of the deputy is five years. They are re-eligible. The duration of the mandate of the Senators is six years. The first third to be renewed, is designated by lot. The mandates of deputy and senator can be prolonged by the Constitutional Court in case of exceptional serious circumstances, which impede the normal conduct of elections. This situation is noted by the Constitutional Court on the seizure by the President of the Republic.

Article 93

The mandate of the deputies and the senators begins on the second Tuesday following their election. Each Chamber of Parliament meets by right. If this meeting takes place outside the periods specified for ordinary sessions, an ordinary session is opened by right for a duration of fifteen days. The mandate of the deputies ends with the inauguration of the new Assembly. Elections take place at least fifty days before the expiration of the mandate of the deputies.

Article 94

The law determines:

- the electoral districts;
- the number of seats and their allocation by districts;
- the mode of balloting;
- the conditions of the organization of new elections in the event of a vacancy of a seat, as well as the regime of ineligibilities;
- the statute of the deputies and the senators.

Article 95

The functions of deputy and senator are incompatible with any other function of public character. The other incompatibilities are established by law.

Article 96

The candidates for legislative or senatorial elections must:

- possess Congolese nationality;
- at least twenty five years of age for the deputies, and forty five at least for the senators;

- must reside on the territory at the moment of the presentation of the list of candidates;
- enjoy all civil and political rights;
- not have been sentenced for crimes for misdemeanors.

Article 97

The candidates in legislative or senatorial elections are presented by the political parties associative groups. They can also present themselves as independent candidates.

Article 98

The deputies and the senators lose their mandates, if they are the objects of a sentence to imprisonment for crimes and misdemeanors. As elected deputy or an elected senator who was presented by a political party or an associative group, who resign from their party of associative group in the course of the legislature, loses the quality of deputy or senator. In that case, partial elections are undertaken. Any ineligibility at the time of the elections that ultimately become known, as well as the incompatibilities specified in the law, result in the loss of the mandate of the deputy or the senator.

Article 99

The Constitutional Court decides concerning the acceptability of candidacies and on the validity of the elections of deputies and senators.

Article 100

It is not possible to proceed to a partial election in the last third of the legislature.

Article 101

No member of Parliament may be pursued, investigated, detained or judged for opinions or votes cast by him in the exercise of his functions. No deputy, no senator may, during the sessions, be arrested or pursued without the authorization of the bureau of the National Assembly, except in a case of a flagrant act (*délit*) of authorized pursuit or a definitive sentence (condemnation). No deputy, no senator may be pursued or arrested outside the session, without the authorization of the bureau of the chamber to which he belongs, except in the case of a flagrant act, authorized pursuits or definitive sentence.

Article 102

The vote of the deputies and senators is personal. The internal regulations of the National assembly and the Senate may authorize exceptionally the delegation of a vote. In such case no one may receive the delegation of more than one vote.

Article 103

The Parliament meets by right in three ordinary sessions per year. The first session opens on March 2, the second on July 2, the third on October 15. Each session shall last forty five days or more. If March 2, July 2 or October 15 are holidays, the opening of the session shall take place on the first day that follows.

Article 104

The schedule for each session shall be set by the conference of the Presidents.

Article 105

Each chamber of Parliament is summoned into an extraordinary session by its President on the demand of the President of the Republic or the absolute majority of its members. The closing shall intervene when the Chamber has exhausted (*épuisé*) the agenda for which it was convened and at most fifteen days counted from the beginning of its meeting.

Article 106

The National Assembly and the Senate are directed by a bureau which consists of:

- a President;
- two Vice-Presidents;
- two secretaries;
- two questors.

Article 107

Each chamber adopts an interior regulation which determines its functioning and fixes its legislative procedure. The President of the National Assembly opens and closes the ordinary and extraordinary sessions of the National Assembly. The President of the Senate opens and closes the ordinary and extraordinary sessions of the Senate.

Article 108

The sessions of the two chambers are public. The integral record of the debates is published in the Journal of Debates. Nevertheless, the National Assembly or the Senate may sit in closed session on the demand of the President of the Republic, the president of each chamber or one third of its members.

Article 109

In case of vacancy of the Presidency of the National Assembly or the Senate owing to death, resignation or any other cause, the concerned chamber (shall) elect a new President within the fifteen days which follow the vacancy if it is in session; in a contrary case, it meets by right under conditions established in the internal regulation. In case of necessity, a replacement by other members of the bureau is provided for in conformity with the provisions of the interior regulations of each chamber.

Article 110

The Parliament has the legislative initiative and alone passes the law. It establishes taxes, votes the budget of the State and controls its execution. It is seized with the draft law of the budget at the opening of the October session. It has the initiative with referenda concurrently with the President of the Republic.

Article 111

The (following) are in the domain of the law:

- citizenship, the civic rights and the fundamental guarantees accorded to citizens, the public liberties, the imposed servitudes (*sujétions*), in the interest of national defense and public security of citizens, in their persons and their possessions (*biens*);
- the nationality, the status and capacity of persons, matrimonial regimes, the successions and liberalities;
- the determination of crimes, misdemeanors and contravention as well as the penalties which shall be applicable, the organization of justice and the procedure (to be) followed before the jurisdictions and for the execution of judicial decisions, the status of the Magistrate, and the regime of the Superior Council of the Magistrative, the ministerial offices and the liberal professions;
- the base, rate and the modalities of the recovery of impositions of any nature, the borrowing and the financial engagements of the State;
- the regime for the minting of coinage;
- the creation of categories of public establishments;
- the regime of referendum-related consultations;
- the delineations (*découpages*) of electoral districts;
- amnesty;
- the general status of public authority;
- the administrative organization of the territory;
- the right to work, the right to work and the regimes of social security;
- the nationalization of enterprises and the transfers of properties of enterprises from the public sector to the private sector;
- the plan for economic and social development;
- the free administration of local collectivities, their competences and their resources;

- the environment and the conservation of natural resources;
- the system of ownership, of real rights and of civil and commercial obligations;
- the system of political parties;
- the approval of treaties and international accords;
- the organization of national defense;
- the management and disposal (*aliénation*) of the private domain of the State;
- the mutuality, the monetary system and credit;
- the regime of transports, communication and information;
- the penitentiary system.

The Law shall also regulate the fundamental principles:

- of instruction;
- of health;
- of science and technology;
- of culture, arts and the sports;
- of agriculture, husbandry, fishing and of waters and forests.

Article 112

The financial laws shall determine the receipts and the expenses of the State. The laws of regulation control the execution of the financial laws with reserve of the final audit of the accounts of the Nation by the Court of Accounts and of Budgetary Discipline. The laws of program fix the objectives of the economic and social action of the State, of the organization of production and national defense.

Article 113

Matters, other than those which are of the domain of the law, shall be of the regulatory domain.

TITLE VII

The Relations between the Executive Power and the Legislative Power

Article 114

The President of the Republic cannot dissolve the National Assembly and the National Assembly cannot dismiss the President of the Republic.

Article 115

The President of each chamber of the Parliament shall inform the President of the Republic of the agenda of the sessions.

Article 116

The agenda of each chamber relates the discussion of all projects and bills in the order in which they were filed in the bureau of the concerned chamber. However, the projects and bills whose urgency is recognized can be examined on a priority basis.

Article 117

The Ministers have access to the sessions of the National Assembly. They shall be heard on the demand of a deputy, a commission on their demand. They can be assisted by experts.

Article 118

The initiative of a legislation belongs concurrently to the President of the Republic and to the members of Parliament. The bills that have been deliberated in the Council of Ministers, following the Advice of the Supreme Court, are deposited on the bureau of one or the other chamber. Bills which are stopped by the Parliament, shall, after deliberation and vote, be addressed for information to the President of the Republic.

Article 119

The propositions and amendments filed by the deputies or the senators are not acceptable when their adoption would have in consequence, either a diminution of the public resources, or the creation of a public obligation, at least if they are not accompanied by a proposition of receipts or equivalent economics.

Article 120

The bills, propositions and the amendments which are not of the domain of the law, are not receivable (*irrecevables*). The irreceivability is declared (*prononcée*) by the president of the interested chamber, after deliberation of the bureau. In the case of contestation, the Constitutional Court, seized by the President of the Republic or by the President of the interested chamber, shall decide within a time limit of eight days.

Article 121

The discussion of bills shall concern, in the first seized chamber, the text presented by the President of the Republic. A chamber is possession (*saisie*) of a text voted by the other chamber deliberates on the text which has been transmitted to it.

Article 122

The bills and propositions of law are sent to one of the permanent commissions whose number is determined in the internal regulation of each chamber. The bills and propositions of

law can, on the demand of the President of the Republic, or one of the seized chambers, be sent for examination, to the Commissions specially designated for this purpose.

Article 123

The President of the Republic and the members of Parliament have the right of amendment.

Article 124

Every bill or proposition of law is examined successively by the two chambers with a view to the adoption of an identical text. When as a result of a discard between the two chambers, a bill or proposition of law could not be adopted after one reading by each chamber, the President of the Republic has the authority (*faculté*) to provoke the reunion of a mixed paritary commission, charged to propose a text based on the provisions remaining in discussion. The text, elaborated by the mixed paritary commission, can be submitted by the President of the Republic for approval by the two chambers. No amendment is receivable, except with the accord of the President of the Republic. If the mixed paritary commission cannot achieve the adoption of a common text, the President of the Republic can, after a new reading by the National Assembly and the Senate, demand a definitive statement from the National Assembly. In such case, the National Assembly can take up either the text elaborated by the mixed paritary commission, or the last text by it, modified, as the case may be, by one or several amendments adopted by the Senate.

Article 125

The laws to which the Constitution confers the character of organic laws, except the law of finances, are voted and modified in the following conditions:

- the bill or proposition of law shall not be submitted for deliberation and voted by the first chamber seized until after the expiration of a period of fifteen days after its filing;
- the procedure of Article 124 shall apply. However, lacking accord between the two chambers, the text cannot be adopted by the National Assembly in its final reading, except by a majority of its members;
- the organic laws cannot be promulgated until after the declaration by the Constitution Court of their conformity with the Constitution.

Article 126

The Parliament is seized with the project of law on finances at the latest one week before the opening of the October session. The project of law must foresee the necessary receipts for the integral coverage of expenses.

Article 127

If the Parliament has not voted the budget at the end of the October session, the President of the Republic (can) demand an extraordinary session whose duration may not exceed fifteen days. After this time, the budget is established definitively, by decree (*ordonnance*), following the advice of the Constitutional Court.

Article 128

An organic law shall regulate the presentation of the budget. The Parliament regulates the accounts of the State. For this task it is assisted by the Court of Accounts and Budgetary Discipline.

Article 129

The regulatory bill shall be filed and distributed, at the latest, at the end of the year which follows the execution of the budget.

Article 130

The declaration of war shall be authorized by the National Assembly. When, in the course of exceptional circumstances, the National Assembly cannot meet promptly (*utilement*), the decision on the declaration of war is taken in the Council of Ministers by the President of the Republic, following the advice of the High Council of the Nation. He (shall) immediately inform the Nation of it.

Article 131

When it appears that an imminent peril, resulting in grave threats to the public order or in the case of events presenting themselves, which by the nature of their gravity, the character of public calamity or national disaster, the President of the Republic may decree in the Council of Ministers a state of emergency (urgency) over the entire national territory or part thereof. When it appears that an imminent peril, resulting from a foreign threat characterized, be it from an insurrection of armed forces, be it from grave events which occurred in spite of the state of emergency, the President of the Republic may decree in the Council of Ministers a state of siege. In both cases the President of the Republic shall inform the Nation by a message. The Parliament shall meet by right if it is not in session in order to appraise the legality of the decision of the President of the Republic. The extension of a state of emergency or of a state of siege for more than fifteen days, cannot be authorized except by the Parliament meeting in Congress. When because of exceptional circumstances, the Parliament cannot meet promptly in order to appraise the legality (of the decision) of the President of the Republic, or in order to extend the state of emergency or the state of siege, after the advice of the Constitutional Court, the President of the Republic may decide on the maintenance of the state of emergency or the state of siege. He shall inform the nation about it by a message.

Article 132

The President of the Republic may, in order to expedite the execution of his program, demand of the Parliament to vote (on) a law authorizing the enactment by decree, during a limited time, the measures which are normally in the domain of the law. This authorization cannot be accorded except by simple majority of the members of Parliament. The demand must indicate the matter, in which the President of the Republic wishes to issue orders. The orders are taken in the Council of Ministers, after the advice of the Supreme Court. They come into force from the (moment) of their publication, but become null if the project of ratification is not filed in the Parliament before the date fixed by law of habilitation. When for unfounded reasons, the demand for habilitation is rejected, the President of the Republic may legislate by decree, after the advice of the Supreme Court. At the expiration of the time referred to in the first

paragraph of this Article, the orders cannot be further modified except by the law, whose provisions are in the legislative domain.

TITLE VIII The Judicial Power

Article 133

Justice is rendered on the Congolese territory in the name of the Congolese people.

Article 134

A judicial power is instituted which is exercised by the Supreme Court and high national jurisdictions. The judicial power decides in disputes resulting from the application of the law of regulation.

Article 135

No one may be arbitrarily detained. The judicial power, guardian of the law and the fundamental liberties, assures the respect for this principle under conditions established by the law.

Article 136

The Supreme Court and the other national jurisdictions are created by an organic law which establishes their organization, their composition and their functioning.

Article 137

The juridical power is independent of the executive power and the legislative power. The judges are not subjected in the exercise of their functions other than the authority of the law.

Article 138

The judicial power may not encroach, neither on the attribution of the executive nor on the attributions of the legislative power. The executive power may neither decree on contestations nor impede the course of justice, nor appose the execution of a judicial decision. The legislative power may neither decree on contestations, nor modify a a judicial decision. Any law whose goal is to furnish a solution to an ongoing process, is null and of no (null) effect.

Article 139

A Superior Council of the Magistrature is instituted presided over by the President of the Republic.

Article 140

The President of the Republic guarantees the independence of the judicial power through the Superior Council of the Magistrature. The Superior Council of the Magistrature shall decree as disciplinary council and as the management organ of the carriers of magistrates.

Article 141

The members of the Supreme Court and the magistrates of the other national jurisdictions are appointed by the President of the Republic on the proposal of the National Council of the Magistrature. The sitting magistrates are irremovable.

Article 142

The law shall establish the particulars of the corps of the magistrates.

Article 143

The organic law determines the organization, the composition and the functioning of the Superior Council of the Magistrature.

TITLE IX

The Constitutional Court

Article 144

The Constitutional Court is instituted. The Constitutional Court consists of nine members whose mandate of nine years is renewable. It is renewed by thirds every three years. Five members of the Constitutional Court are appointed by the President of the Republic. The other members are appointed by the President of the Republic by reason of two members on the proposal of the President of the National Assembly and two members on the proposal of the bureau of the Supreme Court from the members of this jurisdiction. The president of the Constitutional Court is appointed from among its members. He has the decisive (*préponderante*) vote in a case of an even division of votes.

Article 145

The functions of the members of the Constitutional Court are incompatible with those of the members of the National Assembly and the Supreme Court. Persons condemned for forfeiture, high treason, perjury, economic crime, war crime, genocide or any other crime against humanity, cannot be members of the Constitutional Court. The compatibles are specified (*fixées*) by law.

Article 146

The Constitutional Court is charged with the control of the constitutionality of laws, treaties and international accords. It watches over the regularity of the election of the President of the Republic. It examines all the challenges (*réclamations*) and proclaims the results of the vote.

Article 147

The Constitutional Court rules in cases of challenges concerning the regularity of legislative and local elections. It watches over the regularity of the operations of the referendum and proclaims the results.

Article 148

The Constitutional Court is seized by the President of the Republic, the president of the National Assembly or by a third of the deputies. The Constitutional Court is seized, for advice on the conformity, before the promulgation of organic laws or the implementation of the Internal Regulation of the National Assembly. In this case, the Constitutional Court rules within a time limit of one month. However, on the demand presented by the challenger, this time can be reduced to ten days, if it is urgent. The seizure of the Constitutional Court suspends the time period of the promulgation of the law or the implementation (application) of the Internal Regulation.

Article 149

Any individual (*particulier*), be it directly, be it by the procedure of exception of unconstitutionality, invoked before a jurisdiction in a matter that concerns him, may seize the Constitutional Court on the constitutionality of laws. In the case of exception of unconstitutionality, the seized jurisdiction is given one month to rule from the notification of the decision.

Article 150

A provision declared unconstitutional can neither be promulgated nor put into effect. The decisions of the Constitutional Court are not susceptible to any recourse. They impose themselves upon public powers, on all administrative and jurisdictional authorities and on individuals.

Article 151

An organic law determines the rules of the organization, of the composition and the functioning of the Constitutional Court (as well as) the procedure to be followed, notably the time period (within which) actions (*saisine*) must be taken.

TITLE X

The High Court of Justice

Article 152

A High Court of Justice is instituted. It is composed of deputies elected by their peers and of members of the Supreme Court elected in equal numbers by their peers. The High Court of Justice is presided over by the first president of the Supreme Court.

Article 153

The High Court of Justice is competent to judge the President of the Republic in case of high treason. The President of the Republic is arraigned under the conditions inferred to in paragraph 3 of Article 87.

Article 154

The members of the National Assembly and the Senate, the ministers and the members of the Supreme Court shall be judged before the High Court of Justice for acts that qualify as crimes

and misdemeanors committed in the exercise of their functions. They cannot be arraigned except by Parliament by a secret of a two-thirds majority.

Article 155

The coauthors (*co-auteurs*) and accomplices of the persons referred to in Article 150 and 151 are also subject to judgment before the High Court of Justice if it should be necessary that the act of their arraignment emanate from Parliament. The High Court of Justice is bound by the definition of crimes and misdemeanors and by the principle of legality of misdemeanors and penalties as they result from the penal codes in force at the time that the acts were committed.

Article 156

An organic law shall determine the organization, the composition and the functioning of the High Court of Justice.

TITLE XI

The Court of Accounts and Budgetary Discipline

Article 157

A Court of Accounts and Budgetary Discipline is instituted. It is composed of magistrates and high functionaries who possess the required competences in financial and accounting matters. The members of the Court of Accounts and Budgetary Discipline take an oath before the National Assembly before assumption of their function(s). They are appointed by the President of the Republic.

Article 158

The Court of Accounts and Budgetary Discipline is a jurisdictional organ of the administrative order which relates to the financial chamber of the Supreme Court in matters of cassation. It is charged to examine budgetary and financial irregularities which are committed by public accountants including the bookkeepers.

Article 159

The Court of Accounts and Budgetary Discipline makes determinations of quitus, discharges and balances.

Article 160

The Court of Accounts and Budgetary Discipline, has other than its jurisdictional function, a consultative role destined for the information of political or administrative authorities, that are called upon to pronounce sanctions or to envisage eventual reforms.

Article 161

An organic law specifies the organization, the composition and the functioning of the Court of Accounts and Budgetary Discipline.

TITLE XII

The Economic and Social Council

Article 162

An Economic and Social Council is instituted.

Article 163

The Economic and Social Council is, with respect to its public powers, a consultative assembly. It may on its own initiative occupy itself (*se saisir*) with any economic or social problem (which is) of interest to the Republic of Congo. It may also be seized (*être saisi*) by the President of the Republic, the President of the National Assembly or the Senate. The Economic and Social Council may also be consulted on draft treaties and international accords, as well as projects and decrees by reason of their economic or social character. The Economic and Social Council shall be consulted (*saisi*) on any bill, program or plan concerning development of economic or social character, with the exception of the budget of the State.

Article 164

The function of a member of the Economic and Social Council is incompatible with those (of a member) of Parliament, Minister, member of the Constitutional Court, prefect, mayor, subprefect or local councillor.

Article 165

An organic law shall specify the organization, the rules of functioning and the designation of the members of the Economic and Social Council.

TITLE XIII

Council of the Liberty of Communication

Article 166

A Council of Liberty of Communication is created. The Council of the Liberty of Communication is to watch over the good exercise of the liberty of information and communication. It shall also give technical advice and formulate recommendations on the questions touching the domain of information and communication.

Article 167

An organic law shall determine the organization, the composition and the functioning of the High Council of Information and Communication.

TITLE IX

The Mediator of the Republic

Article 168

A Mediator of the Republic is instituted. The Mediator of the Republic is a person appointed by the President of the Republic.

Article 169

Any person, physical or juridical (*morale*), who deems that a matter of concern, a public organism did not function in conformity with the service mission entrusted to it, may an individual request, appeal (*saisir*) to the Mediator of the Republic.

Article 170

The law specifies the conditions of the seizure of the Mediator of the Republic.

TITLE XV Public Force

Article 171

The Public Force is composed of the national police, the gendarmerie and the national armed forces.

Article 172

The Public Force is apolitical. It is subjected to the laws and regulations of the Republic. It is instituted in the general interest. No one shall utilize it for personal ends. The public force is subordinated to the civil authority. It does not act except within the framework of laws and regulations. The conditions of its activation are specified by law.

Article 173

The law establishes the missions and determines the organization and the functioning, as well as the special status of the personnel of the police, the gendarmerie and the Congolese armed forces.

Article 174

The creation of militias is a crime punished by law.

TITLE XVI Local Collectivities

Article 175

The local collectivities of the Republic of Congo are the department and the commune.

Article 176

The local collectivities administer themselves freely through councils elected under conditions specified by law, notably as it concerns their competences and resources.

Article 177

Any imposition of expenses of the sovereignty of the State on the budgets of the local collectivities is prohibited.

Article 178

An organic law specifies the conditions under which the State exercises its tutelage over the decentralized collectivities.

TITLE XVII

Treaties and International Accords

Article 179

The President of the Republic negotiates, signs and ratifies the treaties and international accords. The ratification can only take place after the authorization by the National Assembly, notably as it concerns peace treaties, defense treaties, commercial treaties, treaties relative to natural resources or accords relative to international organization, those which modify the provisions of a legislative nature, those which are relative to the status of persons, those that involve cession, exchange or addition of territory.

Article 180

The President of the Republic and the Parliament shall be informed of all negotiations tending to the conclusion of an international accord not submitted to ratification.

Article 181

No cession, exchange or addition of territory shall be valid without the consent of the Congolese people called upon to declare (*prononcer*) by way of referendum.

Article 182

With the exception of the President of the Republic and the Minister of Foreign Affairs, any representative of the State must, for the adoption or authentication of an international engagement, produce his full powers.

Article 183

The Republic of Congo may conclude accords of association with other states. It accepts to create with these states intergovernmental organisms of common management, coordination, free cooperation and integration.

Article 184

If the Constitutional Court has declared that an international engagement contains a clause contrary to the Constitution, the authorization to ratify or approve it cannot take place after the revision of the Constitution.

Article 185

The treaties or the accords, regularly ratified or approved, have, from their publication, an authority superior to that of laws under the reserve for each accord or treaty, of its application by the other party.

TITLE XVIII

Amendment of the Constitution

Article 189

The initiative of the amendment of the Constitution belongs, concurrently, to the President of the Republic and to the members of Parliament. No procedure for the amendment can be engaged in or pursued when it threatens the integrity of the territory. The republican form, the secular character of the State, the number of mandates of the President of the Republic, as well as the rights enunciated by Titles I and II cannot be the object of the amendments.

Article 187

When it emanates from the President of the Republic, the project of amendment is submitted directly to referendum, after the advice of conformity by the Constitutional Courts. When it emanates from the Parliament the project of amendment must be voted by two thirds of the members of the two chambers of Parliament united as Congress after the advice of conformity by the Constitutional Court. In the two cases the amendment is not definitive until after approval by referendum.

Article 188

An organic law specifies the conditions for the amendment of the Constitution.

TITLE XIX

Transitory and Final Provisions

Article 189

The laws, ordinances and regulations actually in force, when they are not contrary to the present constitution remain applicable so long as they are not modified or abrogated.

Article 190

The political institutions of the transitional period shall function until the effective installation of organs issuing from the general elections. The effective installation of all the institutions envisaged in the present Constitution, take place, at the latest, six months after their approval by way of referendum.

Article 191

The end of the transition is noted by a decision of the Supreme Court sitting in a constitutional matter on the seizure by the President of the Republic. This decision is announced by the President of the Republic, in a Message to the Nation in the seventy two hours that follow.

Article 192

The present Constitution which abrogates the Fundamental Act of October 24, 1997, is submitted to people by way of referendum. It shall be published in the Official Journal after its adoption and enter into force from the end of the period of transition, in conformity with Article 191.

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